

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Alyssa Rogowski	Team: Squad #7	CCRB Case #: 201900301	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 11/16/2018 6:58 PM	Location of Incident: [REDACTED]	Precinct: 34	18 Mo. SOL 5/16/2020	EO SOL 12/31/2020	
Date/Time CV Reported Thu, 01/10/2019 3:00 PM	CV Reported At: CCRB	How CV Reported: In-person	Date/Time Received at CCRB Thu, 01/10/2019 3:00 PM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. POM Ronald Capursi	07276	941497	034 PCT
2. POM Gerald Mortimor	25946	955224	034 PCT
3. POM Daniel Wynne	11292	962083	034 PCT
4. POM Daniel Snyder	18302	961310	034 PCT
5. SGT Joan Ferreira	00469	941746	034 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Carlos Pages	15802	957929	034 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Ronald Capursi	Abuse: Police Officer Ronald Capursi searched § 87(2)(b) [REDACTED] in Manhattan.	[REDACTED]
B.SGT Joan Ferreira	Abuse: Sergeant Joan Ferreira forcibly removed § 87(2)(b) [REDACTED] to the hospital.	[REDACTED]
§ 87(2)(g), § 87(4-b)	[REDACTED]	[REDACTED]
§ 87(4-b), § 87(2)(g)	[REDACTED]	[REDACTED]
§ 87(4-b), § 87(2)(g)	[REDACTED]	[REDACTED]
§ 87(2)(g), § 87(4-b)	[REDACTED]	[REDACTED]
§ 87(2)(g), § 87(4-b)	[REDACTED]	[REDACTED]
§ 87(4-b), § 87(2)(g)	[REDACTED]	[REDACTED]
§ 87(2)(g), § 87(4-b)	[REDACTED]	[REDACTED]

### Case Summary

On January 10<sup>th</sup>, 2019, § 87(2)(b) filed this complaint in-person at the CCRB.

On November 16<sup>th</sup>, 2018 at around 6:58pm, § 87(2)(b) entered his apartment at § 87(2)(b) in Manhattan and observed that his apartment appeared to have been burglarized. § 87(2)(b) called 911 to request police assistance. When Police Officer Daniel Wynne and Police Officer Gerald Mortimor, both of the 34<sup>th</sup> Precinct, arrived, § 87(2)(b) asked them to check around the apartment for signs of a break-in. PO Wynne and PO Mortimor entered the apartment and looked around, then told § 87(2)(b) that they would not be making a report.

§ 87(2)(b) called 911 again to request for additional officers to make a report for him. PO Wynne and PO Mortimor remained on scene with § 87(2)(b) while they waited for more officers to arrive. When Police Officers Daniel Snyder, Ronald Capursi, and Sergeant Joan Ferreira, all of the 34<sup>th</sup> Precinct, arrived, § 87(2)(b) told them that the apartment had been broken into. They asked him if he was on medication, then these officers entered the apartment. After he entered the apartment, PO Capursi came back into the hallway with one of § 87(2)(b)

§ 87(2)(b)'s prescription medication bottles which he allegedly found in the apartment (**Allegation A: Abuse of Authority**, § 87(2)(g) PO Capursi told § 87(2)(b) they would take him to hospital, handcuffed him, then § 87(2)(b) was transported to § 87(2)(b)

§ 87(2)(b) by officers in the back of an RMP (**Allegation B: Abuse of Authority**, § 87(2)(g)

§ 87(4-b), § 87(2)(g)

Video footage of the incident was obtained from PO Wynne's and PO Mortimor's body-worn cameras. The footage only captures the first half of the officers' interaction with § 87(2)(b) and does not capture any allegations (Board Review 03, 04).

### Findings and Recommendations

**Allegation A—Abuse of Authority: Police Officer Ronald Capursi searched § 87(2)(b) in Manhattan.**

**Allegation B—Abuse of Authority: Sergeant Joan Ferreira forcibly removed § 87(2)(b) to the hospital.**

§ 87(2)(b) provided an in-person statement (Board Review 01). § 87(2)(b) recalled that after about 10 minutes of checking his apartment, PO Wynne and PO Mortimor told § 87(2)(b) that they would not be making a report. § 87(2)(b) asked if someone could check the apartment for finger prints and the officers said they would call for additional officers. § 87(2)(b) decided to call 911 again to request himself for other officers to come and make a report for him. During this call, § 87(2)(b) told the operator that he needed someone to dust for prints or check who broke in because the officers who responded were not helping him nor were they making a report.

When PO Capursi, PO Snyder, and Sgt. Ferreira arrived, § 87(2)(b) reiterated to them that the apartment had been broken into. These officers asked him if he was on medication and § 87(2)(b) could hear them talking amongst themselves about how § 87(2)(b) was "that kid" that they took in last time. § 87(2)(b) was not sure what they were talking about, did not recognize any of these officers, and none of the officers ever ran his ID. These officers then told

§ 87(2)(b) that they would look around for medications and went into the apartment. § 87(2)(b) remained in the hallway.

PO Capursi then came back into the hallway with a prescription medication bottle. § 87(2)(b) recognized the bottle as his own but was not sure which prescription was in the bottle. § 87(2)(b) has § 87(2)(b) and takes medications for both. During this incident, § 87(2)(b) was regularly taking his medications and was not under the influence of alcohol or other drugs. § 87(2)(b) never made any comments that were threatening to himself or anyone else. § 87(2)(b) never made any indication that he might harm himself or anyone else. PO Capursi did not state where he found the bottle nor did § 87(2)(b) know where it would have been as his belongings had been thrown around the apartment.

PO Capursi then told him they would take him to hospital. § 87(2)(b) told the officers that they were not following protocol because he had called in a break-in and now they were trying to take him to the hospital. At no point did any of the officers state why they were taking him to the hospital. PO Capursi then handcuffed § 87(2)(b) in the hallway, walked § 87(2)(b) outside, and transported § 87(2)(b) to § 87(2)(b) Hospital Uptown in the back of an RMP. No EMS ever responded during this incident.

The investigation obtained several 911 communications recordings from this incident. According to the radio communications, Sector 34-C requested a bus to the location for an EDP not taking his meds. EMS was backlogged and the responding officers requested a caged car to the location rather than waiting for EMS (Board Review 16).

The AIDED prepared by PO Mortimor in relation to this incident corroborates § 87(2)(b)'s recollection that EMS never responded and that he was removed to the hospital by officers (Board Review 02). According to the AIDED prepared by PO Mortimor, "Officer(s) responded to radio run of a past burglary. Upon investigation, it was determined that the aided report of burglary was unfounded as aided was interviewed further. Aided was uncooperative, irrational, incoherent, and appeared to be mentally ill. It was discovered that aided was prescribed medication which treat ADHD and epilepsy and aided has taken medication as prescribed. Aided was transported to CPMC by responded officer for further evaluation."

Video footage was obtained from PO Mortimor's and PO Wynne's BWC but the footage only captures PO Mortimor and PO Wynne arguing with § 87(2)(b) in the hallway before any of the other officers arrived on scene. § 87(2)(b) is asking PO Mortimor and PO Wynne to dust for prints and stating that they are not doing their job to help investigate the break-in. PO Mortimor and PO Wynne go back and forth with § 87(2)(b) asking him to complete a missing property form. § 87(2)(b) appears frustrated with the officers but does not appear to be incoherent or irrational. This video does not capture the entirety of the incident (Board Review 03, 04).

Video footage obtained from § 87(2)(b) shows the officers and § 87(2)(b) arguing about whether there had been a break-in while standing in the hallway outside § 87(2)(b)'s apartment. It does not capture the entirety of the incident (Board Review 05).

Medical records were obtained from § 87(2)(b) § 87(2)(b) (Board Review 06). The triage comments note that § 87(2)(b) was brought to § 87(2)(b) § 87(2)(b) on § 87(2)(b) at 9:16pm by NYPD after they had responded to a call about people breaking into his home. Upon arrival, NYPD found no one in his apartment. NYPD also informed hospital staff that § 87(2)(b) had acted erratically and paranoid. § 87(2)(b)'s acute diagnosis was agitation, drug withdrawal seizure, moderate benzodiazepine use disorder, other psychoactive substance use, and schizophrenia. § 87(2)(b)

§ 87(2)(b). § 87(2)(b) was violent and combative and at 10:00pm, he had to be medicated for aggressive behavior. § 87(2)(b) was kept overnight then ultimately involuntarily committed to § 87(2)(b) Hospital in Manhattan by three examining physicians who noted that the patient seemed agitated, paranoid, disorganized, and unable to participate in treatment planning.

§ 87(2)(b)

PO Mortimor, PO Wynne, PO Snyder, PO Capursi, and Sgt. Ferreira were all interviewed about this incident (Board Review 07, 08, 09, 10, 11). All of these officers except PO Wynne explained a familiarity with § 87(2)(b) from an arrest a few weeks prior during which § 87(2)(b) was arrested for graffitiing swastikas. PO Mortimor stated that during this prior arrest, § 87(2)(b) had resisted arrest and been yelling. Sgt. Ferreira had not been present for this arrest but stated that he had heard that § 87(2)(b) was removed to the hospital after the arrest though he did not know why this removal had occurred. PO Mortimor, PO Capursi, and Sgt. Ferreira all stated that their knowledge of § 87(2)(b) from this previous arrest factored into their assessment when they responded to § 87(2)(b)'s apartment on November 16<sup>th</sup>, 2018.

§ 87(2)(b) filed a CCRB complaint about officers' actions during this prior arrest which was investigated in CCRB Case 201809936. The CCRB received 10 BWC videos from 9 officers capturing § 87(2)(b)'s arrest. It is clear from these videos, including PO Mortimor's BWC, that § 87(2)(b) neither actively resisted arrest nor had he been yelling (Board Review 20).

All of the officers acknowledged entering § 87(2)(b)'s apartment and checking for signs of forced entry and all denied that there was any indication of a burglary. All of the officers based at least part of their reasoning for § 87(2)(b)'s removal to the hospital on the discovery that § 87(2)(b) was on some kind of medication. PO Mortimor initially stated he observed medications in the bedroom but then stated he only saw the medication after PO Capursi arrived on scene and that he did not recall where in the bedroom the medication was found. PO Wynne knew that PO Capursi found the medication but did not know where and did not recall if he had seen medication out in the apartment during his investigation. PO Snyder did not recall observing any officer recover medication from the apartment but knew that there was a conversation about § 87(2)(b) having been on medication and not taking it. Sgt. Ferreira stated that PO Capursi had recovered the medication from the apartment but Sgt. Ferreira did not know where he found it nor did he personally observe medication out in the apartment.

None of the officers could recall what the medication was for but most believed it was some kind of psychiatric medication and several of the officers stated that § 87(2)(b) had not been taking the medication, though it is noted on the AIDED prepared by PO Mortimor that § 87(2)(b) was taking his medication regularly. PO Mortimor and PO Wynne believed that the officers Googled the medication to identify it as a psychiatric medication though PO Mortimor added that the officers needed EMS to make the call because the officers did not know what the medication was. Sgt. Ferreira stated that PO Capursi was a trained EMT and that he had identified the medication as psychiatric medication. PO Capursi, however, did not recall if medication was found in the apartment and thought that § 87(2)(b) had just mentioned something about medication while speaking with the officers. Rather, PO Capursi focused his assessment of § 87(2)(b) on his prior arrest for graffitiing swastikas and some military fatigues and a welding torch found in the apartment. PO Capursi stated that "the officers felt because of the swastikas, military fatigues, and what was going on nationally at the moment, it would be best for § 87(2)(b) to go speak with a medical professional." When asked if he felt that § 87(2)(b) was a danger to himself or other people, PO Capursi stated that nothing stood out to him

from his recollection of the officers' conversation with § 87(2)(b) at the location and rather just reiterated that "the swastikas, the fatigues, and the climate of society" were concerning. PO Capursi then stated that he and the other officers felt that if § 87(2)(b) did need some kind of help, or if he was believing some kind of crazy ideology, that it would be best for him to speak to someone and that "jail was not the place for him at that moment."

When asked what § 87(2)(b) was doing physically or verbally to contribute to his removal to the hospital, PO Mortimor and PO Wynne recalled that § 87(2)(b) was angry and upset with the officers for not taking his report throughout the encounter but that § 87(2)(b) never acted in a violent manner or did anything physically of concern and PO Wynne added that he did not think § 87(2)(b) was experiencing irrational thoughts. PO Snyder described § 87(2)(b) as hostile, which he clarified as meaning that § 87(2)(b) was yelling and telling the officers they were not helping him. PO Snyder stated that in his opinion, § 87(2)(b) did not appear to be a danger to himself rather PO Snyder just felt maybe § 87(2)(b) should be checked out at the hospital because he had said he was on medication. PO Capursi did not recall § 87(2)(b) making any statements that definitively indicated to him that § 87(2)(b) should be removed to the hospital and noted only that § 87(2)(b) was agitated. Sgt. Ferreira recalled that while speaking with § 87(2)(b) after looking around the apartment, he observed that § 87(2)(b) was not coherent and kept going on different tangents. Sgt. Ferreira did not recall exactly what § 87(2)(b) had been saying but that his body movements led Sgt. Ferreira to feel he was incoherent. As far as body movements, Sgt. Ferreira stated that he meant § 87(2)(b) was fidgety but could not be more specific. Because of § 87(2)(b)'s incoherency, Sgt. Ferreira believed that there was a possibility § 87(2)(b) might hurt himself or others and that it was not safe to leave him in the apartment alone.

After reviewing documentation about the incident in their interviews, all of the officers recalled that EMS had been called to respond to the location but that EMS was backlogged and that after waiting, the decision was made to remove § 87(2)(b) to the hospital in an RMP. Several of the officers stated that a backlog with EMS is a reason that officers might transport an EDP in an RMP as long as officers get permission from a supervisor. Sgt. Ferreira agreed but stated that he did not know any procedure or patrol guide procedure dictating when a person would be removed in an RMP.

§ 87(2)(b), § 87(2)(g)

NYPD Patrol Guide Procedure 221-13 defines an emotionally-disturbed person as someone "who appears to be mentally ill or temporarily deranged and is conducting [themselves] in a manner which a police officer reasonably believes is likely to result in serious injury to himself or others" (Board Review 12). Members of service are to have EDP removed to hospital in ambulance. If an ambulance is not available, members of service are to, "transport EDP to hospital by RMP if able to do so with reasonable restraint at the direction of a supervisor."

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

[Redacted text block]

§ 87(2)(g), § 87(4-b)

[Redacted text block]

§ 87(2)(b), § 87(4-b), § 87(2)(g)

[Redacted text block]

§ 87(2)(g), § 87(4-b)

#### **Civilian and Officer CCRB Histories**

- § 87(2)(b) has been party to four CCRB complaints and has been named a victim in 10 allegations (Board Review 14).
  - 201705598 involved an allegation of offensive language which was closed as alleged victim uncooperative.
  - 201706431 involved an allegation of force which was closed as exonerated.
  - 201809936 involved allegations of force and interference with recording device. To date, this case is pending board review.
- PO Ronald Capursi has been a member-of-service for 12 years and has been a subject in 5 prior CCRB complaints and 9 allegations, none of which were substantiated. PO Capursi is also subject to one ongoing CCRB complaint, 201903591.
- PO Gerald Mortimor has been a member-of-service for 5 years § 87(2)(b)
- PO Daniel Wynne has been a member-of-service for 2 years § 87(2)(b)
- PO Daniel Snyder has been a member-of-service for 3 years and is a subject in one other open CCRB complaint, 201809936.
- Sgt. Joan Ferreira has been a member-of-service for 12 years and has been a subject in 5 prior CCRB complaints and 20 allegations, 12 of which were substantiated.
  - Case 201801900 involved substantiated allegations of entry of premises, property damage, seizure of property, frisk, search of person, stop of person, and search of premises. The Board recommended charges for all of these allegations.

#### **Mediation, Civil and Criminal Histories**

- § 87(2)(b) declined to mediate this complaint.

- According to the Office of the Court Administration (OCA), § 87(2)(b) has no history of convictions in New York City (Board Review 15).
  - As of May 14<sup>th</sup>, 2019, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regard to this complaint (Board Review 18).
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Squad No.: \_\_\_\_\_

Investigator:	_____	_____	_____
	Signature	Print Title & Name	Date

Squad Leader:	_____	_____	_____
	Signature	Print Title & Name	Date

Reviewer:	_____	_____	_____
	Signature	Print Title & Name	Date